

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

MARVIN ORLANDO DAVIS,)
)
Petitioner,) 1:22-CV-660
) 1:13-CR-51-2
v.)
)
UNITED STATES OF AMERICA,)
)
Respondent.)

ORDER AND JUDGMENT

The Recommendation of the United States Magistrate Judge was filed in accordance with 28 U.S.C. § 636(b) and the Clerk served the recommendation on the parties in this action. No objections were filed.

The Magistrate Judge treated the petitioner's paper writing as a § 2255 motion and motion for appointment of counsel. That is an appropriate interpretation, given his citation to two Supreme Court cases addressing errors in criminal proceedings.

The Court has evaluated whether to construe the paper writing as raising a request for appointment of counsel to file a compassionate release motion. Mr. Davis did not cite the applicable statute or use those words and neither case he cites is a compassionate release case. Moreover, the Court concludes in its discretion that the passing references to Covid-19 do not give rise to a sufficiently specific claim to support appointment of counsel to investigate the propriety of a compassionate release motion.

The Court hereby adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED AND ADJUDGED that this action is filed and dismissed *sua sponte* for failure to obtain certification for this § 2255 application by filing a Motion for Authorization in the Fourth Circuit Court of Appeals as required by 28 U.S.C. §§ 2255 and 2244 and Fourth Circuit Local Rule 22(d).

A certificate of appealability shall not issue.

This the 19th day of September, 2022.



UNITED STATES DISTRICT JUDGE